IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/10/2002

CORAM

THE HONOURABLE MRS. JUSTICE PRABHA SRIDEVAN

WRIT PETITION NO.38362 OF 2002 AND WRIT PETITION 38363 OF 2002
AND WP NOS. 38364 AND 38365 of 2002

S.Anandaraj .. Petitioner in
W.P.38362/2002
Somasundaram .. Petitioner in
W.P.38363/2002
S.Pethalis .. Petitioner in
W.P.38364/2002
N.Chandrasekar .. Petitioner in
W.P.38365/2002

-Vs-

The Superintendent of Police,
Kanyakumari District at
Nagercoil, Kanyakumari District. .. 1st respondent in all the W.Ps.
The Inspector of Police,
Nesamony Nagar Police Station,
Nesamony, Kanyakumari District .. 2nd respondent in W.P.
38362/2002

The Inspector of Police,
Asaripallam Police Station,
Asaripallam, Kanyakumari District .. 2nd respondent in W.P.
38363/2002
The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari, Kanyakumari District .. 2nd respondent in W.P.
38364/2002

The Inspector of Police,
Rajakkamangalam Police Station,
Rajakkamangalam, Kanyakumari .. 2nd respondent in W.P.
District 38365/2002

The above Writ Petitions are filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus and as stated therein.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.K.Mahendran,
Spl. Govt. Pleader

:ORDER

The learned Special Government Pleader takes notice.

2. The petitioners claims to be Ayurvedic Vaidyar running Ayurvedic Vaidyasala and certain medicines which are prescribed for the patients.

3. According to the learned counsel, the authorities are illegally interfering with the business and it appears that the petitioners have also applied for L-3 licence. The petitioners admit that the Ayurvedic preparations shall contain self-generated alcohol. This means that they are manufacturing spirituous preparations for which the Tamil Nadu Spirituous Preparation Control Rules shall apply and therefore the petitioners are bound to apply for the requisite permit and licence that are necessary for such preparation. It is the case of the petitioners' that the authorities are indiscriminately destroying all the bottles that are in the pharmacy and that the petitioners are not selling the medicines to the public but only to the patients. Therefore, there should not be any interference with the petitioners' right to carry on their livelihood as a practitioner of Ayurvedic medicines.

4. The learned Special Government Pleader would however tell a different story. According to the learned Special Government Pleader, there are numerous shops calling themselves Ayurvedic Vaidyasala and Ayurvedic Pharmacy in Kanyakumari District and what is sold therein is only illicit liquor which is branded under medicinal names. It is also his case that it is only because it was found that alcohol was being sold to the poor people as well as to the young students that action was taken to curb this uncontrolled preparati on of alleged Ayurvedic medicines which are actually spirituous preparation. It was submitted by the learned Special Government Pleader that it is not, as if, they have a doctor, who administers these medicines to patients. On the other hand, these substances are sold across the counter in petty shops and they have caused havoc in the lives of poor people and therefore such persons do not deserve the indulgence of this Court. It was also submitted that they do not even maintain the records of the medicines they have or a record of the patients to which such medicines could have been administered. Therefore, the learned Special Government Pleader would earnestly plead that no protection should be given to these Ayurvedic practitioners. The learned Special Government Pleader submitted that there are no premises, the bottles are buried in the garden and they are nothing but arrack, so the respondents destroyed the arrack.

5.In these circumstances this order is passed, which may be used as guidelines. The petitioners admit that they manufacture medicines which contain self generated alcohol. Therefore, they are bound to possess all the required permits and licences under the Drugs and Cosmetics Act, The Tamil Nadu Medicinal and Toilet Preparation (Excise Duty) Rules 1956 Act and Medicinal Control and Rules and Tamil Nadu Spirituous Preparations Control

Rules. The petitioners shall also maintain a register of the medicines that they possess which shall be in labeled bottles. The ayurvedic preparations shall be sold only as medicine and to patients. In a similar writ petition, the respondents were directed to exercise caution and not damage the bottles in the petitioner's premises. If the respondents have reason to believe that the petitioners are selling spurious preparations and alcoholic preparations in the guise of medicines, and the sale is not only to patients, but to others, they have the liberty to deal with them in accordance with law. At any point of time if the respondents require the petitioners to produce the relevant documents, the same shall be produced to the respondents. If the respondents are satisfied that their manufacture is only of legal and permissible medicine, the respondents shall not interfere with their business. If, otherwise, the respondents shall have every right to interfere with the business of the petitioners. The renewal application shall be dealt with in accordance with law by the authorities. Accordingly, the writ petitions are disposed of. No costs. Consequently, WPMPs 57390 to 57393 of 2002 are closed.

Index: Yes.
Internet : Yes

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To

1.The Superintendent of Police,
Kanyakumari District at
Nagercoil, Kanyakumari District.

2.The Inspector of Police,
Nesamony Nagar Police Station,
Nesamony, Kanyakumari District

3.The Inspector of Police,
Asaripallam Police Station,
Asaripallam, Kanyakumari District

4.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari, Kanyakumari District

5.The Inspector of Police,
Rajakkamangalam Police Station,
Rajakkamangalam, Kanyakumari District.